

#55
06/28/2022

(O-2022-118)

ORDINANCE NUMBER O- 21473 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 01 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING AN AMENDMENT TO THE
SUPPLEMENTAL PENSION SAVINGS PLAN H (SPSP-H) AS
A RESULT OF THE UNWINDING OF PROPOSITION B.

WHEREAS, on June 5, 2012, City of San Diego (City) voters approved Proposition B, a citizens' initiative to amend the San Diego Charter (Charter) known as "Comprehensive Pension Reform for San Diego" (Proposition B); and

WHEREAS, Proposition B amended Articles VII (entitled "Finance") and IX (entitled "The Retirement of Employees") of the Charter related to retirement benefits of City employees; and

WHEREAS, among other things, Proposition B added sections 140 and 150 to Article IX of the Charter; and

WHEREAS, the Charter amendments set forth in Proposition B became effective on July 20, 2012; and

WHEREAS, Charter section 140 provided that, except for sworn police officers, all Officers and employees who were initially hired or assumed office on or after the date the Charter amendment went into effect, July 20, 2012, were ineligible to participate in the City's defined benefit pension plan, the San Diego City Employees' Retirement System (SDCERS), and would participate only in a defined contribution plan; and

WHEREAS, Charter section 150 authorized the Council of the City of San Diego (Council) to establish "by ordinance" a defined contribution plan consistent with the terms of section 150; and

WHEREAS, by San Diego Ordinance O-20196 (October 2, 2012), Council amended and restated the City of San Diego Supplemental Pension Savings Plan H (SPSP-H) to provide defined contribution plan retirement benefits for all Officers and employees initially hired or assuming office on or after July 20, 2012, as mandated by Charter section 150; and

WHEREAS, on February 5, 2021, judgment was entered in the *Quo Warranto* action, San Diego County Superior Court Case No. 37-2019-00051308-CU-MC-CTL, *The People of the State of California ex rel. San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. City of San Diego and its City Council (Quo Warranto action)*, finding the provisions of the Charter added by Proposition B invalid; and

WHEREAS, on April 9, 2021, the judgment in the *Quo Warranto* action became final when the time for filing an appeal expired; and

WHEREAS, the court in the *Quo Warranto* action also issued a writ commanding the City and Council to comply with the judgment by striking the 2012 Proposition B provisions from the Charter and conforming the San Diego Municipal Code and any other related enactments or regulations accordingly; and

WHEREAS, to comply with the judgment, in part, Council, by San Diego Ordinance O-21332 (June 24, 2021), amended the SPSP-H to remove the changes made to the document to implement Proposition B, so that Officers and employees initially hired or assuming office on or after July 10, 2021, with the exception of police recruits in the City's Police Academy, would no longer participate in SPSP-H, but instead participate in SDCERS; and

WHEREAS, the City has now reached agreements with the San Diego Municipal Employees' Association (MEA), Local 127, American Federation of State, County and

Municipal Employees, AFL-CIO (Local 127), the Deputy City Attorneys Association of San Diego (DCAA), California Teamsters Local 911 (Local 911), and the San Diego City Firefighters, I.A.F.F. Local 145 (Local 145) regarding the unwinding of Proposition B for current represented employees initially hired into an eligible standard hour position on or after July 20, 2012, and before July 10, 2021; and

WHEREAS, the City also extended the terms of its agreement with MEA and Local 127, with the exception of the seven percent interest payment, to all unrepresented employees initially hired into an eligible standard hour position on or after July 20, 2012, and before July 10, 2021; and

WHEREAS, it is now necessary to amend sections 1.10, 1.15, 1.24A, 3.01, 3.02, 12.02, and 12.03 of the SPSP-H to implement the terms of the City's agreements with MEA, Local 127, DCAA, Local 911, and Local 145, and terms extended to unrepresented employees, regarding the unwinding of Proposition B for current represented and unrepresented employees initially hired into an eligible standard hour position on or after July 20, 2012, and before July 10, 2021; and

WHEREAS, for MEA and Local 127-represented employees, and unrepresented employees, the amendments provide for a one-time, irrevocable choice between participation in the amended SPSP-H or SDCERS, and changes to the compensation and employee contribution sections, such that employees who elect to remain in the SPSP-H will contribute the same dollar amount to SPSP-H as they would have contributed to SDCERS had they chosen to participate in SDCERS; and

WHEREAS, the amendments close participation in SPSP-H for DCAA, Local 911, and Local 145-represented employees, effective July 9, 2022; and

WHEREAS, the amendments also provide for mandatory Plan Administrator-directed transfers to SDCERS for purchases of service credit for all MEA, Local 127, DCAA, and Local 911-represented employees and unrepresented employees participating in SDCERS, prospectively, and voluntary participant-directed transfers of remaining SPSP-H balances to the City's 401(k) Plan, after transfers are made to SDCERS; and

WHEREAS, the amendments further provide for mandatory Plan Administrator-directed transfers to the City's 401(a) Plan for all MEA, Local 127, and DCAA-represented employees participating in the 401(a) Plan, prospectively; and

WHEREAS, the City has not yet reached agreement with the San Diego Police Officers' Association regarding the unwinding of Proposition B for police recruits in the City's Police Academy, so they will continue to participate in SPSP-H under current terms; and

WHEREAS, no other changes are being made to the terms of the SPSP-H at this time through this ordinance and plan amendment; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Council of the City of San Diego adopts the amendments to sections 1.10, 1.15, 1.24A, 3.01, 3.02, 12.01, and 12.03 of the SPSP-H, which is on file in the Office of the City Clerk as Document No. 00 - 21473 and authorizes the Mayor or his designee to execute the plan amendment.

Section 2. That this ordinance applies retroactively to July 9, 2022 for all Officers and employees initially hired or assuming office on or after July 20, 2012, and before July 10, 2021, with the exception of police recruits in the City's Police Academy.

Section 3. That a full reading of this ordinance is dispensed with before its passage, a written or printed copy having been available to the Council and the public a day before its passage.

Section 4. That this ordinance will take effect and be in force on the thirtieth day from and after its passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/Thomas J. Brady
Thomas J. Brady
Deputy City Attorney

TJB:jvg
June 3, 2022
Or.Dept: Risk Management
Doc. No.: 2997661

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 2 8 2022.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 7/1/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 28 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 01 2022.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy
for Connie Patterson

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 14 2022, and on JUL 01 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy
for Connie Patterson

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>21473</u>